

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

WALTER BURTON

PETITIONER

V.

CIVIL ACTION NO. 3:21-CV-440-KHJ-LGI

WARDEN SHELBY

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge LaKeysha G. Isaac [10]. The Report recommends that the Court dismiss Burton's § 2254 petition for habeas corpus relief because Burton did not file his petition within the statute of limitations under the Antiterrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. § 2244(d)(1). Written objections to the Report were due by December 27, 2021. The Report notified the parties that failure to file written objections to the findings and recommendations by then would bar further appeal in accordance with 28 U.S.C. § 636. [10] at 6.

Burton entered a guilty plea to capital murder in Rankin County Circuit Court and was sentenced to life without the possibility of parole on October 22, 2012. [10] at 1; Guilty Plea [9-1] at 1. Burton did not pursue state post-conviction relief following his conviction. [10] at 1. AEDPA imposes a one-year statute of limitations on state prisoners filing for habeas relief. 28 U.S.C. § 2244(d)(1). Burton, however, filed his habeas petition on June 29, 2021, nearly eight years after the

statute of limitations ran. The Report found that none of the narrow exceptions to § 2244(d)(1) applied to toll the statute of limitations. [10] at 4–5.

When no party has objected to a magistrate judge’s report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.”). In such cases, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

No party objected to the Report and Recommendation and the time to do so has passed. The Court finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [10] of United States Magistrate Judge LaKeysha G. Isaac, entered in this cause should be, and the same is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that Defendant Shelby’s Motion to Dismiss [9] is GRANTED and this case is DISMISSED WITH PREJUDICE.

A separate Final Judgment will issue this day.

SO ORDERED, this the 3rd day of January, 2022.

s/ Kristi H. Johnson
UNITED STATES DISTRICT JUDGE